



Kansas Bureau of Investigation

Larry Welch
Director

Carla J. Stovall
Attorney General

2002 Kansas Criminal Justice Legislation

Kyle Smith

Kansas Bureau of Investigation

Please check endorsed bills at <http://www.accesskansas.org/legislative/index.cgi> for final versions. Any opinions expressed are not necessarily those of the management.

- SB 9** Effective KS Register 6/6/02 - Sets up special project for supervising felons in Johnson county and creates the Kansas Council for Interstate Adult supervision to set up rules and procedures under the Adult Supervision Interstate Compact – see SB 95 below.
- SB 69** Effective 7/1/02 - New crime of attending, conducting or permitting **Cockfighting**, a class A nonperson misdemeanor.
- SB 95** Effective 7/1/02 - **Adult Supervision Interstate Compact:** enact the Interstate Compact for Adult Offenders Supervision and repeal the current Uniform Act for Out-of-State Parole Supervision. The goal is to promote public safety, ensure tracking and victim notification in interstate supervision situations.
- H Sub 112** Effective 7/1/02 – **Open record act exception for security measures.** Applies to utilities and communication operations.
- H Sub/208** Effective 7/1/02 – Section 1 creates new crime of **abusing toxic vapors**, B misdemeanor and section 2 amends **DUI** to include in the definition of a “drug” the laundry list of toxic vapors in section 1.
- H Sub 339** Effective 7/1/02 - **Early release of prisoners** due to medical condition. DOC applies to Parole Board, notice to prosecutor, judge, victim within. Must wait at least 30 days after notification is given by publication in the county of conviction.

SB 395 Effective KS Register 5/2/02 - New crimes of "endangering food supply", i.e. **agri-terrorism**. Level of penalty depends on damage and method, e.g. foot and mouth disease. Exposing animals, crops, processed food or feed to contagious or infectious disease. Aggravated if done with intent to cause economic harm (level 3 nonperson) or social unrest, injury or death (level 3 person).

SB 407 Effective 7/1/02 - **Keg registration**. Finally passes! Class B misdemeanor to possess unregistered keg or to damage or remove number.

- Negates local ordinances and resolutions
- No private cause of action
- Groundless or bad faith civil or administrative cases may result in award of attorney fees and costs
- Kegs registered with number, identifying information taken by retailer
- Records available ONLY for minors in possession and contributing to misconduct civil, administrative, criminal
- B misdemeanor to remove, disfigure, possess without tag
- ? BUT no criminal penalty for sale without tag.

H Sub. 434 Effective 7/1/02 - **Omnibus criminal procedure bills**

Sec. 1 – Expands the crime of **unlawful sexual relations** to private contractors who handle prisoners.

Sec. 2 - Clarifies expungement does not apply to sexual battery and aggravated sexual battery and that **expungements** are available for PI licensing.

Sec. 3 - **Criminal history challenges** must specify grounds

Sec. 4 - **Certified forensic lab reports** at preliminary hearing may be based on verified form, not sworn.

Sec. 5 & 7 - **Notice to victims for off-grid felonies** at parole hearings

Sec. 6 - **Offender registration technical clean-up**

SB 464 Effective 7/1/01 - **Furnishing alcohol to minors.** Technical amendment - clarify defense of reasonable cause to believe minor was 21 applies to both liquor and CMB.

SB 474 Effective 7/1/02 - **Stalking: Civil Orders.** Intentional harassment that places another in reasonable fear of their safety - course of conduct directed at specific person that causes reasonable fear for safety or has no legal/legitimate purpose. Restraining orders much like PFA's. Costs may be assessed to either party.

SB 475 Effective 7/1/02 - **Protection from abuse orders expanded to include dating relationships.** Enhanced NCIC entry and disallows automatic mutual restraint orders – each defendant has to apply if they want one.

H Sub 486 Effective 7/1/02 - **Common law marriage.** Not recognized if either party is under 18 years of age.

SB 489 Effective 7/1/02 - Limits on **liability for owners of anhydrous ammonia tanks.**

Sub 2075 Effective 7/1/02 - **Methamphetamine Labs**

Sec. 1 - New form of **Arson**, unintentional but caused by illegal drug manufacturing. Level 7 felony. (person felony if a dwelling)

Sec. 2 - Adds the word "or" to the **definition of "manufacture"** in the controlled substances act to clarify that not all of the activities listed have to occur.

Sec. 3 - Amends K.S.A. 65-4152(a)(4) by removing the "with intent to manufacture" language from possession of **anhydrous ammonia in unapproved container statute.**

Sec. 4 - **Amends K.S.A. 65-7006** (possession of ephedrine or pseudoephedrine with intent to manufacture) to include other commonly found **reagent chemicals** used in methamphetamine production: red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia. But see *Frazier* case below.

HB 2078 Effective 7/1/02 - **Shoplifting. Parent's civil liable** for up to \$500. But only \$50 if goods are recovered without damage.

HB 2154 Effective KS Register 6/6/02- **Apprendi/Gould** response on bifurcated sentencing for enhancements.

- Authorizes jury determination of any facts which would increase sentence.
- Expands aggravating factor of race, ethnicity, etc. to include perception of race, sexual orientation, etc.
- Motion to depart upward. County attorney must file 30 days before trial or within 5 days of arraignment so court can determine what evidence could be presented in case in chief. Jury less than 12, more than 6, OK if they can't serve.

HB 2399 Effective 7/1/02 - **Offender registration expanded to juveniles** who commit sex crimes.

HB 2611 Effective 7/1/02 - **Worthless check fees.** Civil service charge for bad check from \$10 to \$30.

HB 2629 Effective Register 4/402 - **Fingerprinting of state computer administrative personnel.**

HB 2630 Effective 7/1/02 - **Medical expenses for indigent prisoners.** Insurance still covers and a claim can be required to be filed. County may seek reimbursement for medical expenses from the prisoner.

Sub/2673 Effective 7/1/02 - **CINC definition of sexual abuse** is now criminal code definition. Struck from definition in CINC, so criminal code governs.

HB 2752 Effective 7/1/02 - Creates new **crimes of tampering with a pipeline** (level 5 nonperson) and theft from a pipeline (level 7 nonperson). Also makes theft convictions in municipal court count as prior convictions for sentencing guidelines purposes.

Allows law enforcement agencies to use suppressors with certain restrictions:

Tactical unit officer, assigned by department head

- Commercially manufactured, owned by agency
- In possession only for specific operations
- ATF approval

HB 2769 Effective 7/1/02 - **Nuisances.** Adds felonies by gang members to list of crimes which can trigger civil nuisance action.

HB 2772 Effective 7/1/02 - Raises **the amount of the forensic lab fee** from \$150 to \$400 and adds the Sedgwick and Johnson County labs to the law.

HB 2802 Effective 7/1/02 - Raises (or reinstates if you have a long memory) \$2.00 fee to all municipal court cost to be applied to **KLETC fund.**

HB 2880 Effective KS Register May 23, 2002 - Expands the **DNA database** to all felonies and a few misdemeanors when the victim is under 18 years of age, as funding is available. Registered nurses authorized to do rape kits. Registered nurses can now do sexual assault exams.

State v. Frazier - Appeal from Montgomery County. KSA 2001 Supp. 65-7006(a). Court of Appeals found possession w/intent of ephedrine or pseudoephedrine (a Level 1 drug felony) and possession of drug paraphernalia are identical offenses. Conviction affirmed. Sentence vacated and case remanded for re-sentencing as level 4. Supreme Court denied review 7/19/02.